HB 295

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 295 (The Speaker, *et al.*) (By Request - Administration)
Economic Matters Finance and Budget and Taxation

Maryland Minimum Wage Act of 2014

This Administration bill requires employers in the State, as of January 1, 2015, to pay the greater of the federal minimum wage or a State minimum wage of $8.00 per hour to employees subject to federal or State minimum wage requirements. The bill provides for subsequent annual increases in the State's minimum wage from July 1, 2015, through July 1, 2018, and allows an exception for employers of amusement or recreational establishments under specified conditions.

The bill also alters the application of the Maryland Wage and Hour Law, changes overtime laws for various industries, alters the tip credit that employers can apply against the direct wages paid to tipped employees, and provides for liquidated damages to be awarded under specified circumstances to employees who are paid less than the minimum wage. Additionally, the bill mandates rate increases for developmental disabilities community services providers.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Expenditures for the Developmental Disabilities Administration (DDA) of the Department of Health and Mental Hygiene (DHMH) increase by an estimated $32.7 million (56% general funds, 44% federal funds) in FY 2016 and by an estimated $139.8 million (56% general funds, 44% federal funds) in FY 2019 due to mandated rate increases for community services providers. State expenditures (all funds) increase by almost $1.5 million in FY 2015 due to additional staffing needs for enforcement at the Department of Labor, Licensing, and Regulation (DLLR) and additional payroll costs – primarily for certain employees of the University System of Maryland (USM) and the Maryland Department of Aging (MDoA). The FY 2015 budget includes $312,122 for DLLR enforcement, contingent on enactment of this bill. Out-year expenditures reflect annualization, inflation, and employee turnover; as well as increases in the minimum wage. Federal fund revenues increase to offset increased wages paid to senior citizen aides employed by MDoA and for community services provider reimbursement. General fund revenues may increase minimally due to additional fines assessed against violators of the State's Wage and Hour Law. Any increase in general fund tax revenues to the State due to higher incomes cannot be reliably projected but is expected to be minimal. **This bill establishes a mandated appropriation beginning in FY 2016.**

($ in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
FF Revenue	$.06	$14.55	$29.81	$45.59	$61.99
GF Expenditure	$.31	$18.79	$38.12	$58.13	$78.85
FF Expenditure	$.06	$14.55	$29.81	$45.59	$61.99
GF/SF/FF Exp.	$.02	$.04	$.07	$.10	$.15
Higher Ed Exp.	$1.07	$3.13	$5.31	$7.77	$12.56
Net Effect	($1.40)	($21.95)	($43.50)	($66.00)	($91.56)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government expenditures increase significantly for certain local jurisdictions to pay additional wages to minimum wage government employees. Any increase in local government tax revenues cannot be reliably projected but is expected to be minimal. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: The Administration has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Maryland Wage and Hour Law

Minimum Wage Adjustment

The bill specifies that, unless the federal minimum wage is set at a higher rate, the minimum wage of the State is $8.00 per hour effective January 1, 2015. Further, as of July 1, 2015, the State minimum wage is increased to the greater of the federal minimum wage or $8.25 per hour; as of July 1, 2016, the State minimum wage will be the greater of the federal minimum wage or $8.75 per hour; as of July 1, 2017, the State minimum wage will be the greater of the federal minimum wage or $9.25 per hour; and as of July 1, 2018, the State minimum wage will be the greater of the federal minimum wage or $10.10 per hour. However, an employer may pay an employee a wage that equals 85% of the State minimum wage for the first six months that the employee is employed if the employee is younger than age 20. Additionally, an employer of an amusement or a recreational establishment, including a swimming pool, that meets specified conditions may pay an employee a wage that equals the greater of $7.25 or 85% of the State minimum wage.

Altered Applicability of the Maryland Wage and Hour Law

The bill establishes that the State's Wage and Hour Law applies to an additional industry and class of workers, specifically individuals who are (1) age 62 or older and work 25 hours or less per week or (2) employed in a motion picture theatre. The bill subjects these employees to the provisions of the Wage and Hour Law, including minimum wage and overtime requirements. Additionally, the bill exempts employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of $400,000 or less, instead of $250,000 or less, from the State's Wage and Hour Law.

Changes to Provisions Related to the Payment of Overtime

The bill repeals the provision that exempts certain employers from overtime requirements, including hotels; motels; restaurants; gas stations; private country clubs; and certain not-for-profit entities that provide temporary at-home care to aged or sick individuals, the disabled, or individuals with a mental disorder.

Changes to the Tip Credit

Under the bill, an employer who employs a worker who receives tips may claim a tip credit equal to the State minimum wage, less $3.63. Thus, the tip credit increases as the minimum wage increases, and the wage paid by employers to tipped employees remains $3.63, as long as their wages plus tips equal the minimum wage.

Penalties

If an employer pays less than the wages required, the employee may bring an action against the employer to recover (1) the difference between the wage paid to the employee and the wage required; (2) an additional amount equal to the difference as liquidated damages; and (3) legal fees. The court *must* award these differences in wages, damages, and counsel fees if the court determines that an employee is entitled to recovery. However, if an employer shows to the satisfaction of the court that the employer acted in good faith and reasonably believed that the wages paid to the employee were not less than the required wages, then the court must award liquidated damages of an amount less than the difference in wages or no liquidated damages.

Developmental Disabilities Providers

Mandated Rate Increases

In fiscal 2016 through 2019, the Governor's proposed budget for DDA *must* include an annual 3.5% rate increase for community services providers over the funding provided in the prior year's legislative appropriation. A portion of the funds *may* be allocated to address the impact of an increase in the State minimum wage on wages and benefits of direct support workers employed by community providers licensed by DDA. The Governor's proposed budget for fiscal 2016 and thereafter for community services providers must be presented in the same manner as provided for in the fiscal 2015 budget.

Repeal of Disparity Provisions

The bill also repeals obsolete provisions of law regarding the DDA wage initiative, which required DHMH to determine the "disparity amount" (the average difference in wages and benefits between community direct-service workers and developmental disabilities associates or other comparable employees in State residential centers) and incrementally increase the rate of reimbursement for community services providers until the disparity amount is eliminated.

Current Law:

Maryland Wage and Hour Law

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act (FLSA) of 1938. State law sets minimum wage standards to provide a maintenance level consistent with the needs of the population. State law specifies that an employee must be paid the greater of the federal minimum wage, which is currently $7.25 per hour, or $6.15 per hour. The State and local governments are considered employers under the Wage and Hour Law.

The Maryland Wage and Hour Law, and minimum wage requirements, do not apply to certain categories of employees, including those defined as administrative, executive, or professional; certain seasonal employees; part-time employees younger than age 16 or older than age 61; salesmen and those who work on commission; an employer's immediate family; movie theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; and certain farm workers. Exceptions to the minimum wage requirement also exist for training wages and disabled employees of a sheltered workshop.

Employers are required to pay an overtime wage of at least 1.5 times the usual hourly wage. This requirement does not apply to an employer that is subject to federal rail laws; a hotel or motel; a restaurant; a gasoline service station; a bona fide private country club; a nonprofit entity primarily engaged in providing temporary at-home care services; a nonprofit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or specified amusement or recreational establishments. It also does not apply to an employee for whom the U.S. Secretary of Transportation sets qualifications and maximum hours of service under federal law; a mechanic, parts person, or salesperson, under certain conditions; drivers employed by a taxicab operator; or specified air carrier employees under certain conditions. An employer has to compute the wage for overtime on the basis of each hour over 40 hours that an employee works during one work week. Specific exemptions apply for farm work, bowling establishments, and infirmaries.

The employer of a tipped employee is allowed a tip credit that can be applied against the direct wages paid by the employer. The employee can be paid tipping wages so long as the wages plus the tips received equal at least the minimum wage, the employee retains all tips, and the employee customarily receives more than $30 a month in tips. The tip credit is currently 50% of the minimum wage or about $3.63 per hour.

If an employer pays less than the wages required, the employee may bring an action against the employer to recover the difference between the wage paid to the employee and the wage required. The court *may* award to an employee legal fees if the court determines that an employee is entitled to recovery.

A person who violates the State's Wage and Hour Law is guilty of a misdemeanor and on conviction is subject to a fine of up to $1,000.

Fair Labor Standards Act

With some exceptions, similar to State law, FLSA requires that a worker be paid a minimum hourly wage and that overtime compensation be paid to employees who work more than 40 hours in a week. There are two ways in which an employee can be covered by FLSA: "enterprise coverage" and "individual coverage."

Enterprise Coverage: Employees who work for certain businesses or organizations are covered by FLSA. These enterprises, which must have at least two employees, are (1) those that have an annual dollar volume of sales or business done of at least $500,000 or (2) hospitals, businesses that provide medical or nursing care, schools and preschools, and government agencies.

Individual Coverage: Even where there is no enterprise coverage, employees may be covered by FLSA if their work regularly involves them in interstate commerce. FLSA covers individual workers who are engaged in commerce or in the production of goods for commerce. Examples of employees who are involved in interstate commerce include those who (1) produce goods that will be sent out of state; (2) regularly make telephone calls to persons located in other states; (3) handle records of interstate transactions; (4) travel to other states for work; or (5) perform janitorial work where goods are produced for shipment to another state. Also, domestic service workers (*i.e.*, housekeepers, full-time baby sitters, and cooks) are normally covered by FLSA. However, many agricultural workers are not subject to FLSA minimum wage and overtime standards.

Developmental Disabilities Providers

DDA must develop and implement a funding system for the distribution of State funds to private providers that are under contract with DDA to provide community-based services to individuals with disability in accordance with the State plan. DDA must notify each private provider at least 30 days before the beginning of the fiscal year of the billing rate or amount of funds to be paid to the provider for the provision of community-based services to an individual with developmental disability or a group of individuals with developmental disability for the coming fiscal year. For rates set in regulation, DDA must include the cost centers used to determine the funding amount of each rate.

DDA must provide payment to private providers for the services provided (1) on or before the third business day of the fiscal quarter beginning July 1, 33% of the total annual amount to be paid to the provider; (2) on or before the third business day of the fiscal quarter beginning October 1, 25% of the total annual amount to be paid to the provider; (3) on or before the third business day of the fiscal quarter beginning January 1, 25% of the total annual amount to be paid to the provider; and (4) on or before the third business day of the fiscal quarter beginning April 1, 17% of the total annual amount to be paid to the provider.

Within one year after receipt of a private provider's year-end report and cost report for rate-based payment systems, DDA must reconcile the report and provide the provider with a written approval of the report or a written explanation of any items in dispute. DDA must conduct an audit of each private provider every four years. Private providers must provide the year-end report to DDA no later than six months after the end of the State fiscal year. Private providers must submit to DDA specified cost reports and wage surveys.

Background: As shown in **Exhibit 1**, 21 states and the District of Columbia mandate a minimum wage higher than the federal minimum wage of $7.25 per hour. Five states have no mandated minimum wage, another four have a minimum wage set lower than the federal minimum wage, and the remaining states, like Maryland, use the federal minimum wage. Unless a state has a higher minimum wage rate, the federal minimum wage rate applies.

Exhibit 1
States with Higher than Federal Minimum Wage, 2014

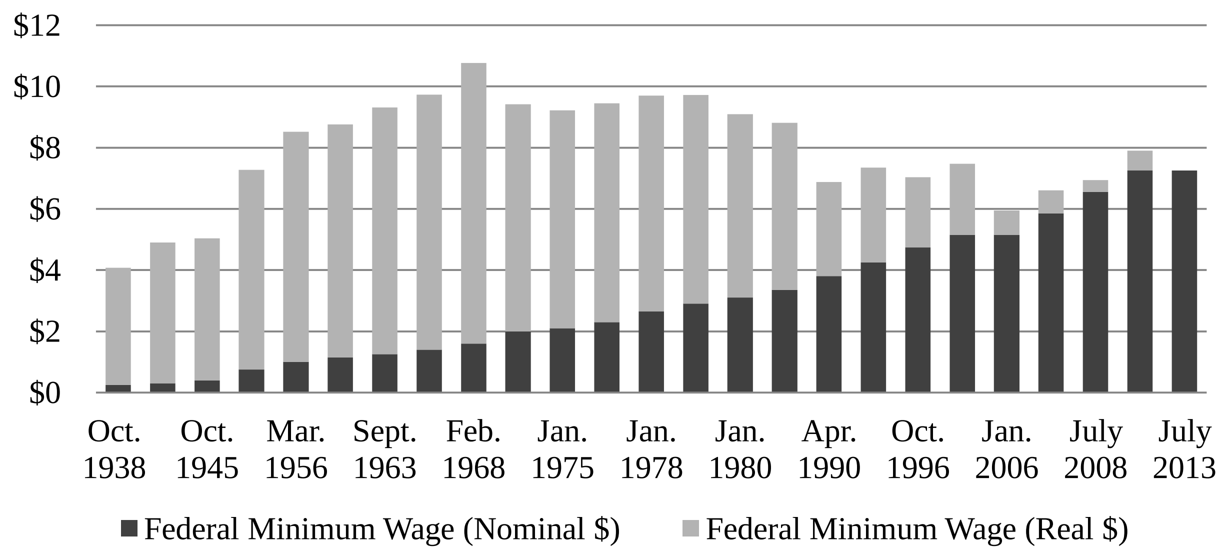
State	Rate	Increases and Indexation
Washington	$9.32	Increases annually based on inflation
Oregon	$9.10	Increases annually based on inflation
Vermont	$8.73	Increases annually by 5% or the percentage increase of the CPI
Connecticut	$8.70	Automatically increases to 0.5% above federal minimum wage if the federal rate equals or becomes higher than the state minimum
District of Columbia	$8.25	Automatically increases to $1.00 above federal rate if the federal rate equals or becomes higher than the district minimum
Illinois	$8.25	
Nevada	$8.25	Increases annually based on inflation
New Jersey	$8.25	Increases annually based on inflation
California	$8.00	Phasing up to $10.00 by January 2016
Colorado	$8.00	Increases annually based on inflation
Massachusetts	$8.00	Automatically increases to $0.10 above federal rate if the federal rate equals or becomes higher than the state minimum
New York	$8.00	Phasing up to $9.00 by January 2016
Rhode Island	$8.00	
Ohio	$7.95	Increases annually based on inflation
Florida	$7.93	Increases annually based on cost-of-living formula
Arizona	$7.90	Increases annually based on cost-of-living formula
Montana	$7.90	Increases or decreases annually based on inflation
Alaska	$7.75	
Maine	$7.50	
Missouri	$7.50	Increases or decreases annually based on cost-of-living formula
New Mexico	$7.50	
Michigan	$7.40	

Source: U.S. Department of Labor; National Conference of State Legislatures

Federal Minimum Wage

The federal minimum wage first established in 1938 has been incrementally increased and expanded to cover additional employees through subsequent amendments to FLSA. The last increase in the federal minimum wage was in July 2009. Recently, bills have been introduced in the U.S. Congress proposing to gradually increase the minimum wage to $10.10 an hour and then index the minimum wage to the Consumer Price Index (CPI), but none has been enacted. **Exhibit 2** shows the nominal and real values for each time the minimum wage was changed, expressed in terms of July 2013 dollars. The real value reflects the purchasing power of the minimum wage, taking inflation into consideration. When Maryland established a minimum wage rate of $6.15 in January 2006, the real value of the minimum wage then was $7.46, in 2013 dollars.

Exhibit 2
Federal Minimum Wage in Real and Nominal Dollars
1938-2013



Source: Congressional Research Service

Local Jurisdiction Labor Laws

Charter counties have the authority to establish a local minimum wage rate under the Express Powers Act. Currently, 10 counties exercise charter home rule: Anne Arundel, Baltimore, Cecil, Dorchester, Harford, Howard, Montgomery, Prince George's, Talbot, and Wicomico, with Frederick County changing to charter home rule on December 1, 2014. Additionally, Baltimore City has police power, so it can establish and enforce a local minimum wage rate. Counties that exercise commission or code home rule have not been delegated the police power that charter counties and Baltimore City have, so they lack the legal authority to establish a local minimum wage.

Montgomery County and Prince George's County passed local minimum wage laws in 2013, Montgomery County Bill 27-13 and Prince George's County Bill CB-94-2013. Both bills phase in minimum wage increases over four years. The bills increase the minimum wage to $8.40 per hour beginning October 1, 2014; $9.55 per hour beginning October 1, 2015; $10.75 per hour beginning October 1, 2016; and $11.50 per hour beginning October 1, 2017. The county minimum wages for Montgomery and Prince George's counties do not apply to an employee who is exempt from the minimum wage requirements of the Maryland Wage and Hour Law or the federal FLSA or to an employee who is younger than age 19 and is employed no more than 20 hours in a week.

Baltimore City enacted a city minimum wage rate in 1964, which was challenged in the State Court of Appeals in *Mayor of Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376 (1969). The court found that the State's minimum wage rate did not preempt Baltimore's minimum wage law since Baltimore's law supplemented the State law by setting a higher rate. Baltimore still has its own minimum wage statute, but it currently sets the minimum wage rate at the federal rate.

Characteristics of Minimum Wage Workers

The U.S. Bureau of Labor Statistics (BLS) and the U.S. Census Bureau conduct the Current Population Survey (CPS), which includes tabulating characteristics on minimum wage earners. In 2012, 3.6 million workers nationwide were paid wages at or below the minimum wage, representing 4.7% of all hourly paid workers.

According to CPS, minimum wage workers tend to be young. About half of all workers earning minimum wage or less were younger than 25, and about 21% of teenagers earning hourly wages were paid the minimum wage or less. Among hourly wage workers without a high school diploma, approximately 10% earned the federal minimum wage or less. About 11% of part-time workers earning an hourly wage were paid the federal minimum wage or less, compared with about 2% of full-time workers.

BLS reports 67,000 workers in Maryland earned wages equal to or less than the federal minimum wage in 2012. Of those earning minimum wage or less, 61% were women. In the last decade, the percent of workers in Maryland earning at or below federal minimum wage has increased from 2.1% in 2003 to 5% in 2012, while, over the same time, median hourly earnings overall have risen from $12.08 to $14.17.

Minimum Wage Effects on the Economy

There is much debate on how raising the minimum wage affects the economy. Positive impacts on the economy may include (1) increases in personal income; (2) decreases in employee turnover; (3) increases in local consumption; (4) higher labor force participation rates; (5) decreases in social welfare costs; and (6) higher levels of technological development, investment, and productivity.

However, on the downside, raising the minimum wage may (1) decrease demand for labor; (2) increase inflation from employers passing higher employee costs onto the consumer; (3) cause wage compression; (4) reduce local competitiveness; and (5) have disemployment effects. The disemployment effects happen when businesses hire fewer low-wage workers in response to an increase in the minimum wage; benefits to low-wage workers from increased wages are offset by a reduction in hours worked or increased unemployment.

DDA Reimbursement of Providers

In recent years, DDA faced significant budgetary problems and numerous federal and State audit findings, largely due to the administration's inability to accurately forecast and monitor expenditures. DDA has pursued an enhanced budget projection methodology and has executed a contract with a national firm specializing in turnaround and interim management services to address operational challenges. Furthermore, DHMH advises that DDA will develop a new approach to rate setting. Despite these and other efforts, DDA's budgeting issues are likely to remain unresolved until weaknesses in the current provider payment system are addressed.

DDA's current payment system, adopted in 1987 and codified in 1994, is prospective in nature; that is, the system estimates the costs that a provider will incur in the coming fiscal year to serve its clients. DDA pays these costs to providers upfront before the services are actually provided. Providers then submit documentation of their expenses, and, at the end of the year, providers and DDA use audited cost reports to reconcile actual costs with the prospective payments. If actual costs are less than the prospective payments, a provider must reimburse DDA; conversely, if actual costs are greater than the prospective payments, DDA must reimburse the provider. The prospective nature of DDA's provider payment process makes budget forecasting more difficult. Because payments are issued one quarter in advance, payments may differ from actual expenses. Inevitably, DDA will have overpaid or underpaid providers at the close of each year. Since the current system was adopted, DDA has encountered significant budgeting difficulties resulting in significant surpluses and, correspondingly, the reversion and/or cancellation of funds, as well as significant deficits.

Chapters 109 and 110 of 2001 required DHMH to increase the rate of reimbursement for community services providers to eliminate the wage disparity between State and private direct-service workers. Rates were to be increased by an amount that reduced the disparity amount to (1) 80% by July 1, 2002; (2) 62% by July 1, 2003; (3) 40% by July 1, 2004; and (4) 20% by July 1, 2005, with the disparity amount eliminated by July 1, 2006. All increases in reimbursement were required to be used to directly increase compensation of direct-service workers. In total, $81 million was appropriated through the wage initiative from fiscal 2003 to 2007. Nevertheless, it remains unclear as to whether the initiative was successful in reaching its goal. The Community Services Rates Reimbursement Commission (CSRRC) and DDA were required to annually survey community services providers to determine if the funds successfully reduced the wage disparity; however, there were inconsistencies throughout the data. Additionally, a certain amount of the wage increase was provided to direct-service workers as a bonus, rather than a salary adjustment, compromising the efforts to permanently increase the salaries of direct-service workers. Though also intended to increase the fringe benefits package for direct-service workers, in practice the initiative did little to improve benefits for direct-service workers.

The fiscal 2015 budget, as enacted, includes $934.4 million (total funds) for contractual expenses for DDA community services providers. The Department of Legislative Services advises that, in recent years, DDA community services providers have received rate increases. Chapters 497 and 498 of 2010 require DHMH to provide an annual inflationary cost adjustment for DDA (and mental hygiene) providers equivalent to the increase in the Executive Branch for certain cost centers. Indeed, the fiscal 2015 budget includes a 4.0% mid-year rate increase in fiscal 2015 for DDA providers, which equates to a 2.0% annual rate increase for that year.

State Revenues: General fund tax revenues increase minimally from increasing the State's minimum wage. Individuals earning minimum wage likely have low, if any, State income tax liability so raising the minimum wage only has a small effect on State income tax revenues. Given that raising the minimum wage boosts the purchasing power of minimum wage workers and generates new consumer spending, general fund sales tax revenues increase minimally. To the extent that payroll spending for employers increases, general fund tax revenues from employers may decrease as they can deduct payroll from taxable income.

DLLR anticipates investigating more violations of the State's Wage and Hour Law under the bill, so general fund revenues may increase minimally due to additional fines assessed against violators of the State's Wage and Hour Law.

State Expenditures:

Expanded Enforcement of Wage and Hour Law Required

By expanding the applicability of the State's Wage and Hour Law and increasing the State's minimum wage, the bill creates additional enforcement responsibilities for DLLR's Division of Labor and Industry. DLLR has not exercised its authority to investigate complaints about minimum wage payments and overtime compensation and to review wage records to enforce compliance since the budget cuts of 1991 effectively reduced available staff for this purpose from 34 to 6. Instead, since State and federal laws are similar, it has been referring complainants to the Employment Standards Administration at the U.S. Department of Labor (DOL). DOL investigators enforce FLSA, not the State's Wage and Hour Law, so DLLR would be responsible for pursuing complaints against employers accused of paying employees more than the federal wage of $7.25 but less than the State wage.

DLLR cannot absorb the additional workload within existing resources and requires additional staffing to respond to the increase in complaints due to the expanded applicability of the State's Wage and Hour Law.

The staff needed to respond to and manage the additional workload created by the bill includes an assistant Attorney General, an administrator, three full-time "wage and hour" investigators, two contractual "wage and hour" investigators, and one office clerk. DLLR advises that inquiries into wage and hour violations are expected to increase significantly due to the bill because the State minimum wage will be set at a higher rate than the federal minimum wage (unless that rate changes correspondingly). Moreover, the bill significantly alters application of the Maryland Wage and Hour Law. DLLR estimates that at least 6,830 additional inquiries would be made and at least 1,620 complaints alleging minimum wage or overtime violations would be filed in the first few years. Based on prior experience, DLLR advises that the majority of employers in violation will voluntarily come into compliance with the bill's provisions after being contacted by division staff. However, at least 90 new formalized complaints must likely be investigated and processed each year by the division, with 10 of them requiring action in the court of appropriate jurisdiction. DLLR anticipates higher compliance of wage and hour laws in later years, so the contractual investigators are needed for five years.

In addition to investigating and processing complaints, DLLR advises that the additional staff will conduct outreach efforts to inform employers of the new requirements. Finally, additional administrative support is needed to handle phone and email inquiries, prepare and file wage orders, handle equipment and supplies, and manage complaint files. Legal staff is needed to provide advice, review wage orders, and plead cases.

General fund expenditures increase for DLLR by $312,122 in fiscal 2015, which assumes DLLR staff are in place as of January 1, 2015, concurrent with the initial increase in the minimum wage. This estimate reflects the cost of hiring three investigators, two contractual investigators, one office clerk, one assistant Attorney General, and one administrator to investigate complaints and enforce the State's Wage and Hour Law. It reflects funding included in the fiscal 2015 budget (contingent on enactment of this bill) and includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, and other equipment.

Regular Positions	6
Contractual Positions	2
Salaries and Fringe Benefits	$215,216
One-time Start-up Costs	39,100
Ongoing Operating Expenses	16,677
Other Equipment	41,129
Total FY 2015 State Expenditures	**$312,122**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

This estimate does not include any health insurance costs that could be incurred for the specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Additional Staffing Costs

The Department of Budget and Management (DBM) advises that, on rare occasions, it employs summer and work study student workers who earn minimum wage. Any additional cost for these individuals is minimal and can be absorbed with existing resources. Also, DBM advises that MDoA currently employs 154 part-time senior citizen aides who are paid the minimum wage; MDoA will, therefore, incur increased wage payments. However, this cost is fully offset by an increase in federal fund revenues of $60,225 in fiscal 2015 as the aides are paid with federal funds. Additionally, DBM advises that several hundred contractual and temporary employees, primarily within the Department of Natural Resources and DHMH, are affected by the bill. Expenditures (all funds) increase by as much as $19,500 in fiscal 2015 and by as much as $149,500 in fiscal 2019 (when fully phased in) for these contractual and temporary employees, depending on employee turnover. The overall impact on other State departments for contractual and temporary employees is likely minimal, and any such impact has not been accounted for in this estimate.

USM advises that 2,413 student employees are currently paid minimum wage, and 7,466 employees, of which the vast majority are students, earn hourly wages below $10.10. Higher education expenditures increase by $1.1 million in fiscal 2015 as these employees must be paid higher wages. Other public higher education institutions are likely similarly affected but have not been accounted for in this estimate. DLS pays workers above $8.00 per hour so there is no impact in fiscal 2015, but DLS incurs minimal additional costs in later years to pay additional wages, which can be absorbed with existing resources. The Maryland Department of Transportation (MDOT) pays six part-time student interns minimum wage. This additional cost is minimal, and MDOT advises it can be absorbed with existing resources.

Exhibit 3 displays the additional wages that would be paid to State employees under the bill. As depicted in Exhibit 3, expenditures increase by at least $1.1 million in fiscal 2015. Expenditures further increase in future years as the minimum wage increases. All estimates assume a State minimum wage that is higher than the federal minimum wage.

Exhibit 3
Effect of Minimum Wage on State Employees
Fiscal 2015-2019

Additional Staffing Costs	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Senior citizen aides	$60,200	$160,600	$240,900	$321,200	$457,700
USM employees	1,069,800	3,126,000	5,305,800	7,770,600	12,561,800
DNR contractual staff	10,700	23,000	40,800	54,000	82,200
DHMH contractual staff	8,800	18,800	33,400	44,100	67,300
Increase in Expenditures	**$1,149,500**	**$3,328,300**	**$5,620,800**	**$8,189,900**	**$13,169,000**
Federal Fund Revenues	$60,200	$160,600	$240,900	$321,200	$457,700
Net Increase in Expenditures	**$1,089,300**	**$3,167,700**	**$5,379,900**	**$7,868,700**	**$12,711,300**

Notes: Dollar amounts are rounded to the nearest one hundred dollars. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

Mandated Rate Increases for DDA Community Services Providers

The bill establishes a mandated appropriation beginning in fiscal 2016. In fiscal 2016 through 2019, the Governor's proposed budget for DDA *must* include an annual 3.5% rate increase for community services providers over the funding provided in the prior year's legislative appropriation. A portion of the funds *may* be allocated to address the impact of an increase in the State minimum wage on wages and benefits of direct support workers employed by community providers licensed by DDA.

DDA expenditures increase by an estimated $32.7 million (56% general funds, 44% federal funds) in fiscal 2016 up to $139.8 million (56% general funds, 44% federal funds) in fiscal 2019 to provide the *mandated* 3.5% rate increase to community providers. (Federal fund revenues increase correspondingly.) The compounding effect of the 3.5% rate increase on expenditures for fiscal 2016 through 2019 is shown in **Exhibit 4**. The fiscal 2015 budget includes $934.4 million (total funds) for contractual expenses for DDA community services providers.

Exhibit 4
Impact of Annual 3.5% Rate Increase for Developmental Disabilities Providers
Fiscal 2016-2019
($ in Millions)

	FY 2016	FY 2017	FY 2018	FY 2019
General Fund Expenditures	$18.3	$37.6	$57.6	$78.3
Federal Fund Expenditures	14.4	29.6	45.3	61.5
Total Expenditures	**$32.7**	**$67.2**	**$102.9**	**$139.8**

Source: Department of Legislative Services

However, the Department of Legislative Services advises that, in recent years, DDA community services providers have received rate increases. Chapters 497 and 498 of 2010 require DHMH to provide an annual inflationary cost adjustment for DDA and mental hygiene providers equivalent to the increase in the Executive Branch for certain cost centers. Indeed, the fiscal 2015 budget includes a 4.0% mid-year rate increase in fiscal 2015 for DDA providers, which equates to a 2.0% annual rate increase for that year. Nevertheless, because the Office of the Attorney General advises that the existing requirement is *not* a mandate, for purposes of this analysis, the full cost of the 3.5% rate increase mandated under the bill is included in the estimate. To the extent a 2.0% rate increase otherwise would be provided in future years, DDA expenditures for community services would have increased by $18.7 million (total funds) in fiscal 2016 and $78.1 million (total funds) in fiscal 2019 absent this bill. *For illustrative purposes only*, the total cumulative effect of a 2.0% rate increase over four years would be $192.9 million compared with $342.6 million for the 3.5% rate increase mandated under the bill.

Serving individuals in the community continues to be the model of service delivery pursued by DDA. Accordingly, DDA's Community Services Program has experienced significant budgetary growth in recent years, in large part due to expansion of services, including the Transitioning Youth Program, crisis services, emergency services, court-involved placements, and Waiting List Equity Fund placements. Community services are typically expanded every year. In each of the past two years, community services have been expanded by approximately $40 million annually (total funds).

The estimated cost of the mandated 3.5% annual rate increase *does not* reflect the impact associated with any additional expansion of community services. To the extent additional community services are provided, expenditures increase further.

Local Fiscal Effect: The Maryland Association of Counties estimates county personnel costs increase between $50,000 and $100,000 for counties with a population of fewer than 150,000 residents and greater increases for larger counties. Some local jurisdictions, such as Baltimore City and Queen Anne's County, require their employees to be paid according to living wage provisions. Even counties without living wage provisions tend to pay employees above minimum wage. Allegany County has very few employees who are paid minimum wage, so it expects less than a 0.1% increase in the county's total salaries and fringe expenditures. Thus, many local jurisdictions currently pay all employees wages higher than those required by the bill. However, several local jurisdictions surveyed indicate that some government employees are paid the current minimum wage or less than the eventual State minimum of $10.10. Wicomico County estimates expenditures increase by less than $15,500 in fiscal 2015 and by $180,000 in fiscal 2019 (when fully phased in) to pay employees additional wages.

Montgomery and Prince George's counties have local minimum wages set above the minimum wage rates proposed in the bill. The local minimum wage rate does not apply to State employees, employees in certain municipalities, and employees who are younger than age 19 and work no more than 20 hours in a week, so the bill does not affect many employees in Montgomery and Prince George's counties. However, Montgomery and Prince George's counties pay employees at the Maryland-National Capital Park and Planning Commission, which is a bi-county agency empowered by the State, so, according to the commission's legal opinion, its employees are exempt from the local minimum wage laws. Under the bill, expenditures for Montgomery and Prince George's counties increase by $46,000 in fiscal 2015 to pay additional wages to 869 commission employees and by $1.3 million in fiscal 2019 to pay additional wages to 2,845 employees.

The Town of Bladensburg estimates seven summer interns in the youth summer employment program are affected, with the town paying additional wages of approximately $3,500 in fiscal 2019. The Town of Berlin estimates expenditures increase minimally in fiscal 2015 to pay 10 seasonal employees additional wages.

Small Business Effect: Small businesses that employ minimum wage workers in the State experience increases in their labor costs due to the bill. The Economic Policy Institute (EPI) estimates, when the bill is fully phased in, 304,000 Maryland workers directly benefit from the bill since the new minimum wage exceeds their current wage. Additionally, 151,000 Maryland workers indirectly benefit because employers are likely to give raises to those who are making just above the new minimum wage in order to preserve their internal wage ladder. Thus, EPI estimates that nearly 500,000 Maryland workers receive additional wages (totaling more than $700 million) directly and indirectly over the phase-in period. The effect of such increases is especially meaningful for employers who were previously not subject to the Wage and Hour Law.

Exhibit 5 lists the number of Maryland workers that are paid up to $10.10 per hour as of December 2013, according to data accessed through CPS. These numbers provide a snapshot of Maryland and may not accurately portray the number of seasonal employees who earn $10.10 or less per hour. Additionally, not all of these individuals would receive an increase in wages, as some are not covered by FLSA or State law or work for a unit of government.

Exhibit 5
Number of Employees Earning $10.10 or Less Per Hour
December 2013

	$7.25 or less	$7.25-$8.20	$8.21-$9.15	$9.16-$10.10	Total
Maryland Workers	57,500	122,860	96,385	57,706	334,451

Source: Current Population Survey

To the extent that higher wages increase worker productivity, businesses would be less affected by the provisions of the bill. Additionally, minimum wage workers tend to have a low saving rate so increasing their wages could lead to additional consumer spending for small businesses.

Additional Information

Prior Introductions: A similar bill, HB 1204 of 2013, received a hearing in the House Economic Matters Committee, but no further action was taken. Its cross file, SB 683, received an unfavorable report from the Senate Finance Committee.

Cross File: SB 331 (The President, *et al.*) (By Request - Administration) - Finance and Budget and Taxation.

Information Source(s): Allegany, Harford, Montgomery, Talbot, and Wicomico counties; Baltimore City; towns of Berlin and Bladensburg; cities of College Park, Frostburg, and Rockville; Maryland Association of Counties; Department of Budget and Management; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; University System of Maryland; Congressional Research Service; U.S. Department of Labor; U.S. Census Bureau; Economic Policy Institute; National Conference of State Legislatures; Department of Legislative Services

Fiscal Note History:	First Reader - February 10, 2014
mc/mcr	Revised - House Third Reader/Updated Information - March 24, 2014
	Revised - Enrolled Bill/Updated Budget Information - May 15, 2014

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Minimum Wage Act of 2014

BILL NUMBER: Senate Bill 331/House Bill 295

PREPARED BY: Governor's Legislative Office

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__ __ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

_X__ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

Small Business Effect: Small businesses that employ low-wage workers in the State experience increases in their labor costs due to the bill. The Economic Policy Institute (EPI) estimates 455,000 Maryland workers (at businesses of all sizes) will receive $721 million in additional wages over the phase-in period.

Small businesses will also benefit from increased consumer demand due to the higher minimum wage. EPI estimates that the increased wages will generate more than $456 million in new economic activity over the phase-in period and will create or support 1,600 new jobs as businesses expand to meet increased demand.